

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

**APRIL 2, 1997**

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

**No. 96-3647**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT II**

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**In the Interest of Robert J.P.,  
A Person Under the Age of 18:**

**STATE OF WISCONSIN,**

**Petitioner-Respondent,**

**v.**

**ROBERT J.P.,**

**Respondent-Appellant.**

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APPEAL from an order of the circuit court for Walworth County:  
MICHAEL S. GIBBS, Judge. *Affirmed.*

ANDERSON, J. Robert J.P. appeals from an order waiving juvenile court jurisdiction. Robert maintains that the juvenile court erred when it resolved that it did not have the authority to send a seventeen-year-old to a secured juvenile correctional facility and concluded that waiver was necessary because there were

no placement options under the juvenile code. Because the juvenile court correctly exercised its discretion, we affirm the waiver of jurisdiction.

Robert was sixteen years old when on October 8, 1996, a delinquency petition and petition for waiver of juvenile court jurisdiction were filed. Robert turned seventeen on November 17 and the waiver hearing was conducted on December 10. At the hearing, Robert's assigned caseworker and attorney proposed that rather than being waived into criminal court, Robert be placed in the Department of Corrections' SPRITE program, and if he did not successfully complete the program that his placement be changed to a secured juvenile corrections facility.

The juvenile court waived its jurisdiction at the conclusion of the hearing. The court stated, "[T]here's not a thing I can do by way of sanctions within the juvenile court system, as far as placing him in corrections. He is an adult. It's the state of the law." This comment is the genesis of this appeal. Robert contends that the remark is an incorrect statement of the law. He asserts that if §§ 938.02(10m), 938.12(2) and 938.44(4m), STATS., 1995-96, are read together, they provide the court with the authority to place a seventeen-year-old in a secured juvenile facility, unlike the prior juvenile code, ch. 48, STATS., 1993-94, which limited the court's placement options in similar circumstances. Robert argues that this erroneous view of the options available prompted the court to waive its jurisdiction. He seeks remand to permit the court to reconsider the waiver decision after a clarification of the placement options available to the juvenile court.

The decision of whether to waive juvenile jurisdiction is within the sound discretion of the juvenile court. See *J.A.L. v. State*, 162 Wis.2d 940, 960, 471 N.W.2d 493, 501 (1991). The juvenile court has discretion to weigh the criteria listed in § 938.18(5), STATS., in deciding whether to waive its jurisdiction. See *id.* Additionally,

the juvenile court does not have to resolve all of the criteria against the child. *See G.B.K. v. State*, 126 Wis.2d 253, 256, 376 N.W.2d 385, 388 (Ct. App. 1985). “We will uphold a discretionary determination if the record reflects that the juvenile court exercised its discretion and there was a reasonable basis for its decision.” *B.B. v. State*, 166 Wis.2d 202, 207, 479 N.W.2d 205, 207 (Ct. App. 1991). In making this determination, the juvenile court must determine that it would be contrary to the best interest of the juvenile or of the public to hear the case.<sup>1</sup> Section 938.18(6). We will reverse a juvenile court's waiver determination “if and only if the record does not reflect a reasonable basis for the determination or a statement of the relevant facts or reasons motivating the determination is not carefully delineated in the record.” *J.A.L.*, 162 Wis.2d at 961, 471 N.W.2d at 501.

It is not necessary for us to resolve if a seventeen-year-old can be ordered placed at a secure juvenile correctional facility for two reasons. First, although the juvenile court is required to consider the criteria set forth in § 938.18(5), STATS., the weight that will be assigned to each factor is within the discretion of the juvenile court, and it is not a misuse of discretion for a juvenile court to assign substantial weight to one or more factors and virtually ignore other factors. *See G.B.K.*, 126 Wis.2d at 259, 376 N.W.2d at 389. Moreover, the juvenile court is not required to resolve all of the factors against the juvenile before jurisdiction can be waived, nor is it required to find that waiver is the last resort. *See id.* at 256, 376 N.W.2d at 388. Thus, even if the juvenile court had concluded that it could send Robert to a secure juvenile correctional facility, it would not have been required to retain jurisdiction.

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<sup>1</sup> The revised Juvenile Justice Code in ch. 938, STATS., 1995-96, no longer requires that “[t]he best interests of the child shall always be of paramount consideration ....” Section 48.01(3), STATS., 1993-94. The intent of the new Juvenile Justice Code is expressed in § 938.01(2), STATS.: “It is the intent of the legislature to promote a juvenile justice system capable of dealing with the problem of juvenile delinquency, a system which will protect the community, impose accountability for violations of law and equip juvenile offenders with competencies to live responsibly and productively.”

Second, and more importantly, we have carefully reviewed the transcript of the waiver hearing, including the juvenile court's articulate and well-crafted bench decision, and conclude that the court had reached the inevitable determination that no matter what options it may have had, Robert would not benefit from further attempts to provide him with "competencies to live responsibly and productively." *See* § 938.01(2), STATS. The central theme of the juvenile court's decision is that Robert is untreatable in the juvenile system because he is headstrong and independent and will only abide by rules when it suits his purpose. The court found that there was no prospect that the juvenile would participate in further treatment programs in the juvenile system. The court's statement that Robert could not be placed in secure juvenile corrections was one of the examples the court gave as to why the juvenile had no incentive to satisfactorily complete the SPRITE program or any juvenile treatment program that was offered to him. Here, the juvenile court's decision is an example of the careful exercise of discretion, its conclusions are supported by the record and we affirm the waiver of jurisdiction.

Robert also appeals the juvenile court's refusal to stay criminal proceedings pending appeal on the grounds that it had no jurisdiction. Although the juvenile court denied his request for a stay, Robert obtained a stay from the criminal court and this court extended the stay upon Robert's motion.

Whether the juvenile court could have ordered a stay is moot because Robert received a stay from the criminal court and this court. It is an elementary rule of law that an issue "is moot when 'a determination is sought which, when made, cannot have any practical effect upon an existing controversy.'" *See Racine v. J-T Enters of Am., Inc.*, 64 Wis.2d 691, 700, 221 N.W.2d 869, 874 (1974) (quoted source omitted). We will not decide moot issues because it requires a determination of abstract principles of law. *See id.* We will decide moot issues in exceptional and compelling circumstances;

however, this is not such a case because Robert was not harmed by the juvenile court's refusal to stay criminal proceedings.

*By the Court.*—Order affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)4, STATS.

